

ST 01-0154-GIL 08/13/2001 TELECOMMUNICATIONS EXCISE TAX

This letter discusses the Telecommunications Excise Tax and Telecommunications Municipal Infrastructure Maintenance Fee treatment of security services. See 35 ILCS 630/1 et seq. and 35 ILCS 635/1 et seq. (This is a GIL).

August 13, 2001

Dear Xxxxx:

This letter is in response to your letter dated June 4, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Please provide a tax ruling on the remittance of the Illinois Telecommunications Excise Tax and The Illinois Telecommunications Infrastructure Maintenance Fee.

COMPANY is an Audio and Visual Security provider.

Our monitoring services communicate on the client's existing telephone line. This may be the phone line the client uses for normal use or, perhaps, a modem line connected to their computer. This may or may not be a separate line dedicated for security.

Typically, when the alarm communicates it 'seizes' the client's line and dials the toll free long distance number into the alarm receiver located in CITY/STATE. Once the receiver answers the line, it interprets the data and relays it to our automation system.

If you require additional information, please contact me.

We do not have enough information about who is providing and charging for the telecommunications services used in your security service to determine who is subject to the Telecommunications Excise Tax or the Telecommunications Municipal Infrastructure Maintenance Fee. What follows is some information regarding this tax and fee that we hope will be helpful.

The provision of security services may be subject to the Telecommunications Excise Tax. See 35 ILCS 630/1 et seq. The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.100.

“Telecommunications,” in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into end-to-end telecommunications service shall be non-taxable sales for resale. 35 ILCS 630/2.

However, “telecommunications” does not include “charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content: or “value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission.” See 35 ILCS 630/2(a) and 2(c). If telecommunications retailers provide both such services, the charges for each must be disaggregated and separately stated from telecommunications charges in the books and records of the retailers. If these charges are not thus disaggregated, the entire charge is taxable as a sale of telecommunications.

Pursuant to Section 495.100(a), “gross charge” means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money, whether paid in money or otherwise, including cash credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service cost or any other expense whatsoever.

Section 495.100(g) provides that “[g]ross charges shall include, but are not limited to, charges for unlisted or unpublished numbers, operator assistance, directory information, call-waiting, call-forwarding, and burglar alarm services provided by telecommunications retailers.

The Telecommunications Municipal Infrastructure Maintenance Fee Act, 35 ILCS 635/1 et seq., provides for the imposition of various fees upon telecommunications retailers. Section 15 of the Act imposes a State infrastructure maintenance fee upon telecommunications retailers, as that term is defined in 35 ILCS 635/10, “equal to 0.5% of all gross charges charged by the telecommunications retailer to service addresses in this State for telecommunications, other than wireless telecommunications, originating or received in this State.” 35 ILCS 635/15(b). Section 15 also provides for an optional infrastructure maintenance fee which telecommunications retailers may pay “with respect to the gross charges charged by the telecommunications retailer to service addresses in a particular municipality for telecommunications, other than wireless telecommunications, originating or received in the municipality....” 35 ILCS 635/15(c).

Section 20 of the Act provides that municipalities may impose a municipal infrastructure maintenance fee upon telecommunications retailers. This fee is based upon gross charges charged by the telecommunications retailers to service addresses in the municipality for telecommunications originating or received in the municipality.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.